1

2

3

4

5

6

7

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

8

9

10

11

12

13

14

15

16

CISCO SYSTEMS, INC.,

　　　　Plaintiff,

　　v.

ARISTA NETWORKS, INC.,

　　　　Defendants.

Case No. 14-cv-05344 BLF (NC)

ORDER DENYING ARISTA'S MOTION TO COMPEL AS TO INTERROGATORIES NOS. 24, 25

Re: Dkt. No. 278

17   Arista seeks a discovery order compelling Cisco to supplement its copyright

18 infringement contentions. Cisco filed this case in 2014, alleging that Arista infringed

19 twenty-six registered works. Fact discovery closed on May 27, 2016. On June 3, 2016,

20 Arista filed its motion to compel Cisco to supplement its responses to interrogatories 24

21 and 25. The Court, in the interest of a "just, speedy, and inexpensive" determination of

22 this action, resolves the motion promptly and without a hearing. Fed. R. Civ. P. 1.

23   In interrogatory 24, Arista requested:

24
25
26
27
28

> "For each CLI Command, mode, hierarchy, prompt, or command response that YOU contend Arista unlawfully copied, identify each and every asserted copyright-registered work in which such CLI Command, mode, hierarchy, prompt, or command response appears, including the registration number for the copyrighted work, the title of the registered computer code and the accompanying documentation, and the Bates number for the page of the filed deposit where the command appears in the copyright-registered work."

Case No. 14-cv-05344 BLF (NC)

In interrogatory 25, Arista requested:

> "For each copyright-registered work that Cisco alleges Arista unlawfully copied, identify the total number of commands, modes, hierarchies, prompts, responses, and lines of software code in the work."

In responding to these requests and the motion to compel, Cisco invoked Federal Rule of Civil Procedure 33(d), which permits a party to produce its business records for examination rather than answer an interrogatory, "if the burden of deriving or ascertaining the answer will be substantially the same for either party." Fed. R. Civ. P. 33(d). The responding party must specify the records to be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could; and give the interrogating party a reasonable opportunity to examine the records. *Id.*

Here, the Court finds that Arista can ascertain the information it seeks from records it has already discovered and that the burden would be substantially the same for either party. *See* Cisco Opp. Dkt. No. 312 at 5-6. Cisco's interrogatory response directs Arista to Bates-numbered documents and to "Source Code." Cisco made its source code available to Arista's counsel on a secure computer during the discovery phase. Consequently, the Court concludes that Cisco has satisfied Rule 33(d) with its responses to interrogatories 24 and 25.

Arista's motion to compel is DENIED. This order terminates docket number 278.

IT IS SO ORDERED.

Dated: July 5, 2016

_____
NATHANAEL M. COUSINS
United States Magistrate Judge